

**ENTERED**

February 21, 2019

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

TAYLOR C GARDNER,

Plaintiff,

VS.

FIELDWOOD ENERGY LLC,

Defendant.

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CIVIL ACTION NO. 4:18-CV-841

**ORDER ADOPTING MEMORANDUM AND ORDER**

Pending before the Court in the above referenced proceeding is Defendant's Rule 12(b)(6) Motion to Dismiss (Doc. 3), Plaintiff's Motion to Remand (Doc. 8), and Magistrate Judge Stacy's Memorandum and Recommendation (Doc. 21) recommending that the Court grant Defendant's Rule 12(b)(6) Motion to Dismiss and deny Plaintiff's Motion to Remand. Neither Plaintiff nor Defendant filed objections to the Memorandum and Recommendation.

Upon review, the Court agrees with the Magistrate Judge's conclusion that the evidence does not support Plaintiff's claim to "seaman" status, and that the uncontroverted evidence shows that the Court does have federal jurisdiction pursuant to the Outer Continental Shelf Lands Act (OCSLA). Additionally, the Court agrees with the Magistrate Judge's conclusion that the motion to dismiss is predicated on Plaintiff's inability to maintain a Jones Act claim or general maritime claims that Plaintiff was not, and cannot be considered, a "seaman." Accordingly, it is

**ORDERED** that the Memorandum and Recommendation (Doc. 21) is **ADOPTED**. It is further

**ORDERED** Plaintiff's Motion to Remand (Doc. 8) is **DENIED**. It is further

**ORDERED** that Defendant's Rule 12(b)(6) Motion to Dismiss (Doc. 3) is **GRANTED**.

Plaintiff's case is **DISMISSED WITH PREJUDICE**.

Entry of this Order shall constitute entry of final judgment.

SIGNED at Houston, Texas, this 21<sup>st</sup> day of February, 2019.

A handwritten signature in black ink, appearing to read 'Andrew S. Hanen', is written over a horizontal line.

ANDREW S. HANEN  
UNITED STATES DISTRICT JUDGE